

§ 219.13 Preemptive effect.

(a) Under section 205 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 434), issuance of these regulations preempts any State law, rule, regulation, order or standard covering the same subject matter, except a provision directed at a local hazard that is consistent with this part and that does not impose an undue burden on interstate commerce.

(b) FRA does not intend by issuance of these regulations to preempt provisions of State criminal law that impose sanctions for reckless conduct that leads to actual loss of life, injury or damage to property, whether such provisions apply specifically to railroad employees or generally to the public at large.

§ 219.15 [Reserved]

§ 219.17 Construction.

Nothing in this part—

(a) Restricts the power of FRA to conduct investigations under section 208 of the Federal Railroad Safety Act of 1970, as amended; or

(b) Creates a private right of action on the part of any person for enforcement of the provisions of this part or for damages resulting from noncompliance with this part.

§ 219.19 Field Manual.

(a) Recommended practice standards for breath testing under subpart D of this part, and related materials designed to assist the railroads in establishing programs for control of alcohol and drug use are contained in the FRA Alcohol and Drug Field Manual, which is revised from time to time by the Office of Safety, FRA.

(b) The Field Manual may be inspected at the Office of the Associate Administrator for Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590. The Field Manual may be purchased at the National Technical Information Service, Order Department, 5285 Port Royal Road, Springfield, Virginia 22161.

§ 219.21 Information collection.

(a) The information collection requirements of this part have been reviewed by the Office of Management

and Budget pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2130–0526.

(b) The information collection requirements are found in the following sections:

Section 219.7.
Section 219.23.
Section 219.104.
Section 219.201.
Section 219.203.
Section 219.205.
Section 219.207.
Section 219.209.
Section 219.211.
Section 219.213.
Section 219.303.
Section 219.307.
Section 219.309.
Section 219.401.
Section 219.403.
Section 219.405.
Section 219.407.
Section 219.501.
Section 219.503.
Section 219.601.
Section 219.605.
Section 219.701.
Section 219.703.
Section 219.705.
Section 219.707.
Section 219.709.
Section 219.711.
Section 219.713.

§ 219.23 Railroad policies.

(a) Whenever a breath or body fluid test is required of an employee under this part, the railroad shall provide clear and unequivocal written notice to the employee that the test is being required under Federal Railroad Administration regulations. Use of the mandated DOT form for urine drug testing or breath analysis satisfies the requirements of this paragraph.

(b) Whenever a breath or body fluid test is required of an employee under this part, the railroad shall provide clear, unequivocal written notice of the basis or bases upon which the test is required (*e.g.*, reasonable suspicion, violation of a specified operating/safety rule enumerated in subpart D of this part, random selection, follow-up, etc.). Completion of the alcohol testing form or urine custody and control form indicating the basis of the test (prior to providing a copy to the employee) satisfies the requirement of this paragraph.